



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 18, 1995

Mr. Robert P. Rose  
Assistant City Attorney  
City of Austin  
Department of Law  
P.O. Box 1088  
Austin, Texas 78767-1088

OR95-182

Dear Mr. Rose:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32341.

The City of Austin (the "city") has received a request for a copy of a 9-1-1 audio tape of a call reporting a stabbing. The stabbing resulted in the murder of one person and the serious injury of a second. You claim that this information is excepted from disclosure under section 552.108 because the investigation is ongoing.

Section 552.108 provides that:

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, and prosecution of crime is excepted from [required public disclosure].
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

In an open criminal case, section 552.108 exempts from disclosure all information except that normally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston

[14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." See *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986). As you inform us that the investigation is pending and the tape contains the same information that would be excepted from disclosure were it to appear in an offense report, you may withhold the tape pursuant to section 552.108.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/LMM/rho

Ref.: ID# 32341

Enclosures: Submitted tape

cc: Ms. Lisa Koseoglu  
Crime Reporter  
KTBC-TV  
119 East Tenth Street  
Austin, Texas 78701  
(w/o enclosures)